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*** CONFIDENTIAL FACSIMILE ***

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Attached hereto:

1) **Appeal Brief Under 37 C.F.R. §41.37 (30 pages)**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Scott Broussard et al.	§	Group Art Unit:	3661
Serial No.: 10/733,841	§	Examiner:	Cuong H. Nguyen
Date Filed: December 11, 2003	§	Confirmation No.:	2183
Title: Methods, Systems, and Media for Providing a Location-Based Service	§	IBM Docket No.:	AUS920031011US1
	§	Atty Docket No.:	(4032)

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October 18, 2005
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APPEAL BRIEF UNDER 37 C.F.R. §41.37

Dear Sir:

This paper is submitted pursuant to 37 CFR §41.37 in furtherance of the Notice of Appeal filed on August 18, 2005 for the above referenced patent application to appeal final rejections imposed by the USPTO on claims in the above referenced patent application to the Board of Patent Appeals and Interferences ("Board") after careful consideration to address issues associated with the final rejections.

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I. REAL PARTY IN INTEREST

The real party in interest is International Business Machines Corporation ("IBM") having a principle place of business at New Orchard Road, Armonk, NY 10504, as assignee of patent(s) resulting from the above-referenced patent application, in view of the assignments executed by each of the joint inventors to IBM.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals nor interferences known to Appellants, Appellants' legal representative, or assignee which will directly affect or be directly affected by or having a bearing on the Board's decision in this pending appeal.

III. STATUS OF CLAIMS

Claims 1-24 are pending in this application. Claims 1-21 are appealed herein and claims 22-24 are not appealed. Claims 1-24 stand rejected by a final Office action dated May 18, 2005. More particularly:

1) Claims 1-5, 7-21, and 23-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitham U.S. Pat. 6,526,351 (hereinafter "Whitham") in view of Trossen et al. U.S. Pat. Application Publication US 2005/0059410 A1 (hereinafter "Trossen").
2) Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitham in view of Trossen and further in view of Bodin et al. U.S. Pat. 6,813,559 (hereinafter "Bodin").
3) Claim 22 stands rejected under 35 U.S.C. § 102(e) as being anticipated by Whitham.

IV. STATUS OF AMENDMENTS

In its Response to Final Office Action Mailed May 18, 2005 that Appellants filed on July 18th, 2005, Appellants requested that the claims be amended to cancel claims 22-24 without prejudice. The Advisory Action of August 2nd, 2005 rejected the requested amendment and did not cancel the claims. No other amendments have been filed

subsequent to the final rejection. The claims found in the Exhibit of this Appeal Brief reflect the appealed claims as they are understood by the Appellants at the date of this appeal.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Appellants' independent claim 1 as currently presented claims a method for utilizing a location-based service. The method includes receiving from a user at a current location differential information, where the differential information indicates a difference between the current location and a particular, different location. (*See, e.g.*, page 16, lines 13-22). Differential information may include user-estimated distances, compass directions, height differences, or other information. (*See, e.g.*, Page 16, lines 6-22). The method also includes determining the current location and determining the particular location based on the current location and the received differential information. (*See, e.g.*, page 16, line 24 – page 17, line 20). The method also includes providing a location-based service that produces results that are at least partially based on the particular location and displaying the results of the location-based service to the user. (*See, e.g.*, page 17, lines 9-24). Separately-rejected dependent claim 6 adds an additional limitation where the differential information includes an indication of a height. (*See, e.g.*, page 16, lines 13-17).

Appellants' independent claim 10 as currently presented claims an apparatus having a position determining module (116) for determining a current location and a compass (114) to indicate directional information between the current location and a particular location. (*See, e.g.*, Page 7, lines 6-25). The claimed apparatus also includes a user interface (118) for receiving user input, where the user input includes differential information indication a difference between the current location and the particular location. (*See, e.g.*, page 7, line 26 – page 8, line 7 and page 14, lines 15-19). Differential information may include user-estimated distances, compass directions, height differences, or other information. (*See, e.g.*, Page 16, lines 6-22). The claimed apparatus also includes a service module (202) to provide a location-based service based on the

particular location and a display device (204). (*See, e.g.*, page 13, lines 20-29 and page 14, lines 13-14).

Appellants' independent claim 19 as currently presented claims a machine-accessible medium containing instructions, which when executed by a machine, cause the machine to perform a series of operations. The series of operations may include receiving from a user at a current location differential information, where the differential information indicates a difference between the current location and a particular, different location. (*See, e.g.*, page 16, lines 13-22). The series of operations also includes determining the current location and determining the particular location based on the current location and the received differential information. (*See, e.g.*, page 16, line 24 – page 17, line 20). The series of operations also includes providing a location-based service that produces results that are at least partially based on the particular location and displaying the results of the location-based service to the user. (*See, e.g.*, page 17, lines 9-24).

Using the claimed invention, a user may receive a location-based service based upon a particular location that is different than their current location. A user may, for example, select a particular location 50 miles away by providing the appropriate differential information and receive a location-based service based on that particular, different location. (*See, e.g.*, Page 11, line 9-24). For example, a user traveling on a highway could find out what sort of service stations are available near an exit of the highway many miles down the road. (*See, e.g.*, Page 11, line 9-24). A location-based service based on the user's current location may not provide the user with the information they need, as the service will be limited to, for example, service stations within a specified distance of the current location, not the particular location down the highway. (*See, e.g.*, Page 11, line 9-24).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1) Claims 1-5 and 7-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitham in view of Trossen.

2) Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitham in view of Trossen and further in view of Bodin.

VII. ARGUMENT

1) Claims 1-21 are patentable under 35 U.S.C. §103 over Whitham in view of Trossen

To establish a prima facie case of obviousness, three basic criteria must be met.[1] First, there must be a suggestion or motivation to modify or combine the references.[2] Second, there must be a reasonable expectation of success in the modification or combination.[3] Finally, the modification or combination must teach or suggest all of Appellants' claim limitations.[4] As will be shown below, neither Whitham nor Trossen, alone or in combination, establish a prima facie case of obviousness under 35 U.S.C. §103, which is the burden of the USPTO when rejecting claims under 35 U.S.C. §103. Neither Whitham nor Trossen establish a prima facie case of obviousness because Trossen is invalid as a reference, the references fail to suggest all of Appellants' claim limitations, and there is no motivation to combine the references. Accordingly, Appellants respectfully request that the rejections of claims 1-21 be withdrawn as those rejections have been traversed in light of the following remarks.

Appellant's Declaration invalidates Trossen as a reference

On July 18th, 2005, Appellants submitted a timely Declaration under 37 C.F.R. § 131 with its Response to Final Office Action Mailed May 18, 2005 establishing the invention of the subject matter of the rejected claims (including claims 1-21) as on or before August 22, 2003. To overcome a 35 U.S.C. §103 rejection, Appellants need only

[1] Manual of Patent Examining Procedure §2142.
[2] *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991).
[3] *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097, 231 USPQ 375, 379 (Fed. Cir. 1986).
[4] *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974).

establish completion of the invention prior to the effective date of any of the references and Appellants need not antedate the reference with the earliest filing date.[5] Because Appellants' Declaration was both timely and proper, Appellants have successfully "sworn behind" the Trossen reference as its effective filing date is September 17, 2003, invalidating the 35 U.S.C. §103 rejection based on Trossen. Despite Appellants' timely and proper Declaration, the Examiner maintained his final rejection of the claimed invention.

Appellants' Declaration met all the requirements of 37 C.F.R. § 131. Appellants' Declaration established, through a signed declaration as well as written exhibits, conception of the invention on or before August 21st, 2003 and diligent reduction to practice until filing of a patent application on December 11th, 2003.[6] Appellants respectfully contend that the Declaration establishes "possession of either the whole invention claimed or something falling with the claim".[7] Appellants' presentation of the Declaration was seasonable as the presentation "with a first reply after final rejection for the purpose of overcoming a new ground of rejection or requirement made in the final rejection."[8] Examiner first cited Trossen against Appellants in the Final Office Action mailed May 18, 2005 and Appellants presented the declaration on July 18th, 2005 with their first reply after final rejection. Accordingly, Appellants have successfully sworn behind Trossen and all rejections relying upon Trossen should be reversed.

Even if Trossen is used as a reference, Whitham and Trossen fail to establish a prima facie case of obviousness

Assuming, arguendo, that Trossen could be used as a valid reference against Appellant, the combination of Whitham and Trossen still fails to meet the criteria to establish a prima facie case of obviousness because of a failure to teach or suggest all of Appellants' claim limitations and a lack of motivation to combine the two references.

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[5] Manual of Patent Examining Procedure §715.02(I).
[6] 37 C.F.R. § 131(b).
[7] Manual of Patent Examining Procedure §715.02.
[8] Manual of Patent Examining Procedure §715.09(C)(1).

The combination of Whitham and Trossen does not teach or suggest all claim limitations

The combination of Whitham and Trossen does not teach or suggest all of the claimed limitations. Specifically, with respect to claim 1, both Whitham and Trossen fail to describe, suggest, or teach:

> receiving from a user at a current location differential information, the differential information indicating a difference between the current location and a particular, different location....

The Office action argues that Whitham teaches a method for "receiving from a user at a current location information and a particular, different location" because "the **patented interactive multimedia guide produces** a distance by using 2 different locations."[9] Despite the assertions of the Office action, however, Whitham does not disclose or suggest receiving *from a user* at a current location differential information. As the Office action notes, the distance between two different locations taught by Whitham is produced by *the multimedia guide*, and is not provided by a *user*. Whitham teaches an interactive multimedia guide "that is implemented using a GPS (Global Positioning System) system enabled map program with a GIS (Geographic Information System) database running on a computer" (Specification, column 2, lines 52-55). Whitham provides that the disclosed system may display a map of a selected tour and the location of the GPS receiver and user on the map (Specification, column 4, lines 24-27). Whitham further provides that during a tour the system may provide to the user audible directions to a different destination while en route to a first destination (Specification, column 4, lines 27-29). While Whitham does teach an interactive multimedia guide system providing directions between a user's current location and another location, Whitham does not disclose or suggest receiving differential information *from a user* and is thus readily distinguishable from the present invention. Whitham, in contrast, discloses providing directions *to a user* from a user's current location to another location specified in the tour guide. Whitham

[9] Final Office action dated May 18, 2005, pp. 3-4, emphasis added.

simply does not teach or suggest, expressly or inherently, the teachings of independent claim 1.

Neither does Trossen disclose receiving *from a user* at a current location differential information as required by claim 1. The Office action states that Trossen teaches receiving differential information.[10] Trossen discloses "a service provider that can receive a request for a differential location service from the terminal at least partially over a wireless network" and a service provider that can provide a "requested differential location service" to a terminal (Abstract). Trossen does disclose a "geographic area" as part of the differential location service request that the service provider can compare with the location of the terminal to determine whether a trigger condition is satisfied. Trossen, col. 5, lines 28-45. The "geographic area" of Trossen, however, is not a "particular location" as required by Claim 1 as the geographic area of Trossen is defined as a location and an area relative to the location, not as a particular location. Trossen, col. 5, lines 32-35. Moreover, Trossen does not teach receiving the geographic area from a user and instead teaches receiving the geographic area from the service provider. Trossen thus does not disclose "receiving from a user at a current location differential information". As neither Whitham nor Trossen disclose or suggest "receiving from a user at a current location differential information," the rejections of claim 1 should be reversed.

The combination of Whitham and Trossen also does not teach or suggest another limitation of claim 1, specifically:

> providing a location-based service, wherein the location-based service produces results that are at least partially based on the particular location.

particularly when the particular location is determined based on "the differential information received from the user" as taught by claim 1. The Office action states that Whitman teaches "providing a location-based service (i.e., an interactive multimedia tour guide, see Whitham, 3:60-63).[11] The Office action's failure to quote the entire claim

[10] Final Office action dated May 18, 2005, pp. 4.
[11] Final Office action dated May 18, 2005, pp. 4.

limitation emphasizes the failure of Whitham to teach providing a location-based service *based on a particular location.* Instead, Whitham teaches providing a location-based service based on the *current* location of the user (Specification, column 4, lines 39-55; *see also*, Specification, column 5, lines 25-45). For instance, Whitham discloses providing restaurant recommendations that are "reasonably close" to the user's current location or "in the vicinity" of the user (Specification, column 5, lines 25-45). Whitham also teaches a service with "primary destinations in a given tour" and "ancillary points of interest" of a pre-defined tour (Specification, column 3, lines 20-42). The ancillary points of interest taught by Whitham are the *results* of a location-based service and not the *basis* for one and thus are not a "particular location" as defined in claim 1. The ancillary points of interest are predefined for a tour and not the result of a determination made in response to "differential information received from a user", as required by claim 1. Whitham's location-based service is based on the user's current location and the ancillary points of interest are the results of that location-based service. Whitham simply does not disclose or suggest providing a location-based service, wherein the location-based service produces results that are at least partially based on the particular location, and where the particular location is determined based on the differential information received from the user.

Trossen also fails to disclose or suggest providing a location-based service at least partially based on the particular location, particularly when the particular location is determined based on the differential information received from the user as taught by claim 1. The Office action cites Trossen as expressly disclosing "providing a location-based service (see Trossen et al., the abstract)."[12] Despite the Office action's cursory cite of Trossen, Trossen does not disclose providing a location-based service at least partially based on the particular location where the particular location is determined based on the differential information received from a user. Trossen instead discloses providing "the requested differential location service based upon a comparison of a current location of the terminal and the geographic area defined in the predetermined manner." Trossen,

[12] Final Office action dated May 18, 2005, pp. 4.

Abstract. The mapping processor of Trossen "can receive the geographic area from the service provider" and "transform the geographic area of the request to thereby define the geographic area in a predetermined manner" Trossen, Abstract. Trossen provides a service based on a current location and an area defined by a mapping processor and does not disclose or suggest providing a location-based service based on a particular location where the particular location is determined based on *differential information received from a user.* The location-based service of Trossen is still based on a current location – and its relation to a geographic area – not on a particular location different than the user's present location.

Whitham and Trossen do not teach or suggest, alone or in combination, multiple limitations of claim 1 for the reasons described above as well as other reasons. Accordingly, Appellant respectfully requests that the rejection of claim 1 be reversed. Further, claims 2-10, being dependent upon claim 1, incorporate the limitations of claim 1. Since claim 1 is allowable, all claims dependent upon claim 1 are also in condition for allowance.[13] Appellant therefore respectfully requests that these rejections also be reversed.

There is no suggestion or motivation to combine Whitham and Trossen

The requirements for a proper Section 103 rejection were recently and unambiguously re-stated by the U. S. Court of Appeals for the Federal Circuit in *In re Dembiczak*, 50 USPQ2d 1614 (Fed. Cir. 1999). The claims at issue in *Dembiczak* were directed towards an orange trash bag on which facial indicia such as eyes, nose, and mouth were affixed to simulate the appearance of a carved, decorative pumpkin when the bag was filled with leaves or other trash filling material. The Board of Patent Appeals and Interferences (the Board) affirmed the examiner's rejection of the claims under Section 103 based on a combination of references, one of which was conventional prior art trash bags and another of which was a children's art book describing a method of

[13] *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

making a "paper bag pumpkin" by stuffing a bag with newspapers, painting it orange, and then painting on facial features with black paint. The Federal Circuit reversed the Board, reasoning that the Board had failed to make a showing of any suggestion, teaching, or motivation to combine the cited references.

In a strongly worded opinion, the Court wrote, "[o]ur case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references." *Dembiczak*, 50 USPQ2d at 1617. The Court went on to say, "[c]ombining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability." *Id.* While the *Dembiczak* Court acknowledged that the required evidence of suggestion or motivation does not necessarily have to be found in the references themselves and may flow from the knowledge of one of ordinary skill in the art, the Court made clear that "the range of sources available [for demonstrating the requisite suggestion or motivation]... does not diminish the requirement for actual evidence. That is, the showing must be clear and particular. Broad conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence.'" *Id.* (citation omitted).

Appellant respectfully submits that the Office action has failed to establish a *prima facie* case of obviousness with respect to claim 1 because Whitham fails to suggest or motivate the combination with Trossen. The Office action does not provide any indication of a teaching or motivation to combine Trossen with Whitham as Whitham lacks such teaching or motivation. In rejecting the claims, the Office action did not particularly identify any suggestion, teaching, or motivation in the cited references to modify Whitham to incorporate the teachings of Trossen and instead relied upon a general statement indicating that:

> ... *[i]t* would have been obvious to one of ordinary skill in the art at the time of the invention to combine both Whitham and Trossen et al. to providing differential information, and providing a location-based service

> for the benefit of providing mapping services outside a service area when receiving a request from a customer, the service provider would be capable of providing the requested differential location service based upon a comparison of a current location and a geographic area in question.[14]

The Office action simply asserts that Whitham and Trossen could be functionally combined without providing a single piece of evidence of any teaching or motivation to do so. Such a broad and conclusory statement of the possibility of a combination cannot support a proper combination of Whitham and Trossen without some suggestion or teaching.

In addition, there is no suggestion or motivation to combine because Whitham teaches away from Trossen. It is improper to combine references where the references teach away from their combination.[15] The rejection states:

> ... Trossen et al., expressly disclose about receiving "differential information", and providing a location-based service...[16]

The Office action seems to be attempting to use Trossen for teaching "receiving from a user at a current location differential information, the differential information indicating a difference between the current location and a particular, different location" as required by Claim 1. Assuming, arguendo, that Trossen disclosed such a teaching, Whitham in fact teaches away from claim 1 as a user of Whitham's interactive multimedia guide who needs to receive directions to a location certainly would not be in a position to provide differential information to the interactive multimedia guide itself. Receipt of differential information (such as a distance or compass direction) from a user would be contrary to the basic principles of Whitham's interactive multimedia guide, which is intended to provide directions to a user (who needs guidance) of the interactive multimedia guide in relation to a packaged tour. Whitham, col. 1, lines 6-26. In doing so, the interactive multimedia guide provides ancillary points of interest (*i.e.*, the closest fast food establishments) based on the user's location in a tour. Whitham, col. 4, lines 39-55.

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[14] Final Office action dated May 18, 2005, pp. 4.
[15] In re Grasselli, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983).
[16] Final Office action dated May 18, 2005, pp. 4.

Whitham is intended to provide directions and guidance and directions to a user as part of a tour, not to receive information about a different, particular location from a user.

Whitham also teaches away from the Office action's attempt to combine Whitham with providing a location-based service as described in Trossen. Assuming again, arguendo, that Trossen did disclose providing a location-based service based at least partially on a particular, different location, Whitham's interactive media tour guide teaches away from such combination. Whitham utilizes a GPS receiver to determine the location of a user throughout the interactive tour and consistently and exclusively provides location-based services solely on the user's current location. *See, e.g.*, Whitham, col. 4, lines 39-55 (closest fast food establishment to current location), Whitham, col. 5, lines 33-41 (grocery store that is reasonably close to present location), Whitham, col. 19, line 64 – col. 20, line3 (use current location provided by GPS to determine closest dining facilities), etc. Providing a location-based service for a different location than the user's present location would be contrary to Whitham's consistent attempts to provide services based on a user's position, and a user would likely be confused upon receiving a service based on a different location.

As the Office action's rejection of claim 1 under 35 U.S.C. § 103 is improper because Trossen and Whitham do not teach all limitations of the claimed invention, there is no suggestion or motivation to combine Trossen with Whitham, and Whitham teaches away from Trossen, Appellants respectfully request that the rejections of claim 1 be reversed. Further, claims 2-10, being dependent upon claim 1, incorporate the limitations of claim 1. Since claim 1 is allowable, all claims dependent upon claim 1 are also in condition for allowance.[17] Appellant therefore respectfully requests that these rejections also be reversed.

[17] *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Claims 11-21 are allowable for similar reasons

Claims 11 and 19 comprise similar limitations to the above limitations quoted above for claim 1 and the Office action treats them as the same, rejecting claims 11 and 19 based upon the statements above. Therefore, based upon the arguments above, a combination of Whitham and Trossen not only requires the use of impermissible hindsight reasoning to attempt to reconstruct claims 11 and 19, but the combination fails to achieve all of the elements of claims 11 and 19. As such, the rejections of claims 11 and 19 should be reversed. Since the independent claims 11 and 19, the claims dependent upon claims 11 and 19 are also in condition for allowance.[18] Accordingly, Appellants request that the rejections with respect to dependent claims 12-18 and 20-21 also be reversed.

2) Claim 6 is patentable under 35 U.S.C. §103 over Whitham in view of Trossen and further in view of Bodin

There is no suggestion to combine Whitham with either Trossen or Bodin

Appellant respectfully submits that the Office action has failed to establish a *prima facie* case of obviousness with respect to claim 6 because Whitham fails to suggest or motivate the combination with either Trossen or Bodin. The combination of Whitham and Trossen has been discussed previously and is incorporated by reference as applied to claim 6, as the Office action improperly combines Trossen with Whitham, making the rejection of claim 6 improper. Additionally, the Office action does not provide any indication of a teaching or motivation to combine Bodin with either Trossen or Whitham. In rejecting the Claims, the Office action did not particularly identify any suggestion, teaching, or motivation in the cited references to modify Whitham or Trossen to incorporate the teachings of Bodin and instead relied upon a general statement indicating that:

[18] *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

> ... *[i]t* would have been obvious to one of ordinary skill in the art at the time of the invention to combine both Whitham, Trossen et al, and Bodin et al. to include extra coordination: an altitude coordination as recommended by Bodin et al. for the benefit of completely providing 3-dimension coordination of an object using GPS in mappings.[19]

The Office action simply asserts that Bodin could be combined with Whitham or Trossen without providing a single piece of evidence of any teaching or motivation to do so. Bodin discloses a position of an unmanned aerial vehicle (UAV) being expressed in a height or altitude in an invention relating to orbiting a waypoint for a UAV. There is no support for combining the non-relevant art of Bodin in the field of UAV's to the location-based services of Whitham and Trossen. Appellants respectfully request that the rejections of claim 6 be reversed.

Conclusion

The combination of Whitham and Trossen is improper because Trossen is an improper reference, there is no motivation to combine the references, and the combined references fail to suggest all of the claim limitations. The combination of Bodin with Whitham and Trossen is also improper because Trossen is an improper reference, there is no motivation to combine the references, and the combined references fail to suggest all of the claim limitations.

In view of the foregoing, claims 1-21 are allowable over the cited references and this Board is respectfully requested to remand this application to the Examiner for reconsideration consistent with an order that the Examiner pass this case to issuance unless a proper rejection to the claims can be made.

[19] Final Office action dated May 18, 2005, pp. 6.

Payment

The Commissioner is hereby authorized to charge the fee set forth for filing a brief in support of an appeal pursuant to 37 CFR § 41.20(b)(2) of $500.00 (for large entity) to Deposit Account No. 09-0447. The Commissioner is also hereby authorized to charge or credit Deposit Account No. 09-0447 for any additional filing fees required or for any overpayment.

Respectfully Submitted,

Oct 18, 2005
Date

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VIII. CLAIMS APPENDIX

TEXT OF CLAIMS PRESENTED ON APPEAL

WHAT IS CLAIMED IS:

1. A method for utilizing a location-based service, the method comprising:
receiving from a user at a current location differential information, the differential information indicating a difference between the current location and a particular, different location;
determining the current location;
determining the particular location based on the current location and the differential information received from the user;
providing a location-based service, wherein the location-based service produces results that are at least partially based on the particular location; and
displaying information to the user, wherein the information displayed to the user is at least partially based on the results of the location-based service.

2. The method of claim 1, further comprising determining directional information between the current location and the particular location.

3. The method of claim 2, wherein the directional information comprises an indication of compass direction between the current location and the particular location.

4. The method of claim 2, wherein the directional information comprises an angle of rotation.

5. The method of claim 1, wherein the differential information comprises an indication of the distance between the current location and the particular location.

6. The method of claim 1, wherein the differential information comprises an indication of a height.

7. The method of claim 1, wherein the location-based service is a ratings service.

8. The method of claim 1, wherein the location-based service is a mapping service.

9. The method of claim 1, wherein the location-based service is an information service, the information service providing information related to the particular location.

10. The method of claim 1, wherein the providing the location-based service comprises transmitting a request for a location-based service and receiving results from a location-based service.

11. An apparatus for utilizing a location-based service, the apparatus comprising:
a position determining module for determining a current location;
a compass, wherein the compass indicates directional information between the current location and a particular location;
a user interface for receiving user input, wherein the user input comprises differential information indicating a difference between the current location and the particular location;
a service module, the service module providing a location-based service based on the particular location; and
a display device to display at least some of the results of the location-based service to the user.

12. The apparatus of claim 11, further comprising a processor for determining the particular location based on the current location, directional information and the differential information.

13. The apparatus of claim 11, the service module comprising:
a transmitter for transmitting a request for a location-based service based on the particular location; and
a receiver for receiving information related to the particular location; and

14. The apparatus of claim 11, wherein transmitter couples with the processor to transmit the particular location as part of the request for rating information.

15. The apparatus of claim 11, wherein the position determining module is a global positioning system receiver.

16. The apparatus of claim 11, wherein the compass is a digital compass.

17. The apparatus of claim 11, wherein the user interface is adapted to receive as an input differential information indicating a distance between the current location and the particular location.

18. The apparatus of claim 17, wherein the differential information comprises a distance.

19. A machine-accessible medium containing instructions, which when executed by a machine, cause said machine to perform operations, comprising:
receiving from a user at a current location differential information, the differential information indicating a difference between the current location and a particular, different location;
determining the current location;
determining the particular location based on the current location and the differential information received from the user;
providing a location-based service, wherein the location-based service produces results that are at least partially based on the particular location; and

displaying information to the user, wherein the information displayed to the user is at least partially based on the results of the location-based service.

20. The machine-accessible medium of claim 19, further comprising determining a compass direction between the current location and the particular location.

21. The machine-accessible medium of claim 19, wherein receiving the differential information comprises receiving an indication of the distance between the current location and the particular location.

IX. EVIDENCE APPENDIX

Appellants' Declaration under 37 C.F.R. § 131 submitted with its Response to Final Office Action Mailed May 18, 2005 is attached.

X. RELATED PROCEEDINGS APPENDIX

Not applicable.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Scott Broussard et al.	§	Group Art Unit:	3661
Serial No.: 10/733,841	§	Examiner:	Cuong H. Nguyen
Date Filed: December 11, 2003	§	Confirmation No.:	2183
Title: Methods, Systems, and Media for Providing a Location-Based Service	§	IBM Docket No.:	AUS920031011US1
	§	Atty Docket No.:	(4032)

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CERTIFICATE OF FACSIMILE

I hereby certify that, on the date shown below, this correspondence is being transmitted via facsimile to the U.S. Patent & Trademark Office at facsimile no.: 703-872-9306

Signature

July 18, 2005

Date

DECLARATION OF INVENTORS UNDER 37 C.F.R. § 1.131

1. We, Scott J. Broussard, Ying Lui, and Eduardo N. Spring, declare that we are the inventors for the claims of the above-referenced patent application.

2. We further declare that we conceived of this invention on or before August 21, 2003.

3. We further declare that we electronically submitted an invention disclosure describing our invention on August 22, 2003. A copy of part of the invention disclosure is attached as Exhibit 1 to this Declaration.

4. We further declare that, after conception of our invention and up to the date of filing of the above-referenced patent application on December 11, 2003, we diligently reduced our invention to practice, including by working with the drafting patent attorney to prepare the patent application specification and claims. Among other activities, we reviewed a draft of the patent application on or about November 11, 2003.

5. We further declare that our invention was conceived and reduced to practice in or around Austin, Texas in the United States.

6. We further declare that all statements made herein of our knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that the making of willfully false statements and the like is punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and may jeopardize the validity of this patent application and any patent that issues from this patent application.

9/14/2005
Date

Scott J. Brousard

Date

Ying Lui

07/14/2005
Date

Eduardo N. Spring

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Scott Broussard et al.		Group Art Unit:	3661
Serial No.:	10/733,841	Examiner:	Cuong H. Nguyen
Date Filed:	December 11, 2003	Confirmation No.:	2183
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Signature: [signature]

Date: July 18, 2005

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Commissioner for Patents

Serial No. 10/733,841
Art Unit: 3661 Examiner: Cuong H. Nguyen
IBM Docket No.: AUS920031011US1(4032)

6. We further declare that all statements made herein of our knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that the making of willfully false statements and the like is punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and may jeopardize the validity of this patent application and any patent that issues from this patent application.

Date — Scott J. Broussard

7/14/2005
Date — Ying Dai Lin

Date — Eduardo N. Spring

Exhibit 1

Disclosure AUS8-2003-1471

Prepared for and/or by an IBM Attorney - IBM Confidential

Created By Scott Broussard On 08/21/2003 08:19:28 AM MDT
Last Modified By Barbara Rogers On 10/02/2003 10:32:08 AM MDT

Required fields are marked with the asterisk (*) and must be filled in to complete the form.

***Title of disclosure (in English)**
System and Method for Cell Phone Compass & location estimator

Summary

Status	Final Decision Pending
Final Deadline	
Final Deadline Reason	
Primary Disclosure	AUS8-2003-1470
Docket Family	AUS8-2003-0603
*Processing Location	Austin
*Functional Area	(52A) 52A - PVC: PERVASIVE COMPUTING (Karanick)
Attorney/Patent Professional	Diana L Roberts/Austin/IBM
IDT Team	Leonel Machuca/Austin/Contr/IBM Sandra Garcia/Austin/Contr/IBM James Smith/Austin/IBM
Submitted Date	08/22/2003 03:42:15 PM MDT
*Owning Division	PVC
Incentive Program	
Lab	
*Technology Code	601
PVT Score	18

Inventors with a Blue Pages entry
Inventors: Scott Broussard/Austin/IBM, Ed Spring/Austin/IBM, Ying Liu/Austin/IBM

Inventor Name	Inventor Serial	File/Dept	Inventor Phone	Manager Name
> Broussard, Scott J.	492378	7J7TLAA	678-8643	West II, Robert W.
Spring, Ed N.	728737	7J7TLAA	678-8726	West II, Robert W.
Liu, Ying (Lisa)	148337	7J7TLAA	678-2349	West II, Robert W.

> denotes primary contact

Inventors without a Blue Pages entry

IDT Selection

Attorney/Patent Diana L Roberts/Austin/IBM

Main Idea for Disclosure AUS8-2003-1471

Prepared for and/or by an IBM Attorney - IBM Confidential

Archived On 08/30/2003 12:05:28 AM

Title of disclosure (in English)
System and Method for Cell Phone Compass & location estimator

Main idea of disclosure
1. Background: What is the problem solved by your invention? Describe known solutions to this problem (if any). What are the drawbacks of such known solutions, or why is an additional solution required? Cite any relevant technical documents or references.
ABSTRACT

In the area of cell phones, popularity services, GPS, this innovation describes a system and method that allows the GPS location (of another location from where the device is) to be estimated, and then the informatin can be integrated with cell phone services that utilize GPS.

PROBLEM

Sometimes GPS is a valuable piece of information in performing an advanced enterprise telecom service, however, sometimes even better
services could be performed by getting the GPS location of some other location.

2. Summary of invention: Briefly describe the core idea of your invention (saving the details for questions #3 below). Describe the advantage(s) of using your invention instead of the known solutions described above.
SOLUTION

This innovation utilizes an internal digital compass that is part of the cell phone device, to provide directional capability within the phone. With the direction that the phone is pointing, the phone can prompt the user for a distance and calculate the estimated GPS of another point of interest. This other point of interest can be used to determine the rating or category of that point and utilize the rating system.

Distances can be easily entered or selected from a list (1 block, 2 block, 5 blocks, 1/2 mile, 1 mile, 5 miles, 10 miles).

Additionally, the simple compass can provide navigational assistance for a phone device user as with a traditional compass. Compass directions are
useful not only in the woods but in cities, tunnels buildings where users may get disoriented. The phone service may also give directions in terms of a bearing and distance.

When entering a distance and pointing the cell phone, and possibly selecting a category (or deriving a category from your current location),
the cell phone service can suggest points of interest or businesses in the most appropriate order the 'best' by rating or the closest by distance.

Maps can be easily provided for points of interest that are recommended by this system.

DERIVITIVES

Main idea for disclosure - continued

The cellular link layer of the system could determine based on the signal strength at several towers, the angle that the phone is pointing, in addition to its GPS. So older phone models could be supported.

3. Description: Describe how your invention works, and how it could be implemented, using text, diagrams and flow charts as appropriate.